ATTACHMENT J

to

Comments of Western Wireless

in

FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE SEEKS COMMENT ON CERTAIN OF THE COMMISSION'S RULES RELATING TO HIGH-COST UNIVERSAL SERVICE SUPPORT AND THE ETC DESIGNATION PROCESS

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Policy Analysis of Changes to the Universal Service Support System In a Competitive Environment

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I. INTRODUCTION AND EXECUTIVE SUMMARY

This paper proposes an analytical methodology for evaluating policy alternatives relating to the structure of universal service support in a competitive environment raised in the Commission's *Referral Order* and the Federal-State Joint Board's *Public Notice*.[1] Five evaluation criteria are suggested for use in evaluating each of the options: (1) is the option legal? (2) is it administratively feasible? (3) how effectively does it promote universal service? (4) is it economically efficient and beneficial to consumers? and (5) is it competitively neutral?

The *Referral Order* and the Joint Board *Public Notice* raise questions regarding the scope or structure of universal service support, including policy options such as restricting support amounts to a single "primary" line per end-user, apparently aimed at preventing excessive growth of the universal service fund. Based on the evaluation criteria outlined above, this paper assesses these options and reaches the following conclusions:

- Restricting support to a single "primary" line per end user would raise legal and public policy concerns. It would also be extraordinarily difficult to implement such a restriction in a manner that is competitively neutral.
- The following alternative universal service reform measures should be considered: (i) imposing a cap on the growth of the total amount of funding available to all ETCs in each competitive study area, and allocating funding among ETCs in the area based on their respective market shares; and (ii) allocating portable vouchers or "phone stamps" to consumers.

This paper also analyzes issues relating to the use of auctions to determine the amount of high-cost funding provided, and reaches the following conclusions:

- Negative auctions – in which carriers offer bids based on the lowest support amount needed to support universal service – should be further evaluated as a means for determining the level of support in a designated service area.
- Auctions designed so that only a single carrier wins and receives support would be inconsistent with competitive neutrality and economically inefficient.
- Universal service auctions can be designed such that multiple bidders can win and receive funding for offering diverse services at divergent prices, each of which includes the basic functionalities included in the definition of universal service.

The Joint Board and the Commission face the daunting tasks of gathering information, assessing various proposals, and analyzing and evaluating those proposals. In that regard, the Joint Board and the Commission should convene a "Competitive Universal Service Task Force," modeled on the Rural Task Force ("RTF") that met during 1998-2000 and developed the universal service policy framework for universal service support in "rural telephone company" study areas, which the Commission adopted in 2001.

II. ANALYTICAL METHODOLOGY AND CRITERIA FOR EVALUATING COMPETITIVE UNIVERSAL SERVICE POLICY OPTIONS

A. Methodology for Public Policy Analysis

The broad scope of the issues raised in this proceeding gives the Joint Board and the Commission an unusual opportunity to apply a thorough and rigorous analytical methodology to evaluate the public policy options. We submit that such an analysis should begin with a broad definition of the problems to be addressed – and critically, the problem definition should be open-ended and should avoid circularly defining the solution into the problem. Next, criteria must be identified for use in evaluating the problem. Third, alternative policy options must be identified. Finally, each of the alternatives must be evaluated based on how it is likely to operate and how well it will advance the identified policy criteria and objectives.[2]

B. Problem Definition

Both the *Referral Order* and the *Joint Board Public Notice* group the variety of public policy issues that they raise into a number of broad categories. This paper addresses two categories of problems:

(1) The Joint Board has sought comment on the scope and structure of universal service support disbursements in rural, high-cost, and insular geographic areas where competition is present (*e.g.*, based on "primary" lines, or based on the total number of lines served by each ETC, or only based on residential customer lines, or limited or capped in some other manner).[3] The perceived policy problem that the Commission and the Joint Board apparently are trying to address can be defined as follows: "What changes to the scope or structure of the high-cost funding mechanism would be appropriate to support universal service in the most cost-effective manner?"

(2) The Joint Board has also sought comment on the methodology for determining the amounts of high-cost federal universal service support provided to ETCs operating in rural, high-cost, and insular areas.[4] The perceived problem can be defined as follows: "How should the amount of funding be determined in high-cost areas?" Approaches to determining the amount of funding based on forward-looking or embedded cost are discussed elsewhere; the focus of this paper is on the advantages and disadvantages of using negative auctions as a means to determine the amount of funding.

C. Evaluation Criteria

The *Joint Board Public Notice* (¶ 16) seeks comment on what policy goals should be brought to bear in assessing portability and other policy issues. This paper suggests that the analysis should evaluate the policy options using five distinct criteria.

1. Legality

Is the option legal? Will it withstand judicial review based on the standards in the Communications Act and other applicable law? Does it properly respect the jurisdictional boundaries between the scope of FCC and state commission authority? Obviously, if a policy proposal is unlawful, or would be beyond the scope of the FCC's authority, then there is no point in considering it.

2. Administrative Feasibility

Is the policy alternative administratively feasible – *i.e.*, can it be implemented, as a practical matter, by regulators, carriers, and consumers? What costs would implementation entail? An ideal policy in theory is not worthwhile if it is so complex that USAC or state commissions will be unable to administer it. Similarly, if a policy proposal would require carriers to undertake unnecessarily burdensome or costly measures to implement it, the proposal may not be worthwhile. Significantly, some options would require consumers to make choices or take other actions that they may find difficult to understand, or would result in incomprehensible charges on phone bills. A complete policy evaluation must consider what administrative costs each policy option would entail. Moreover, excessive complexity tends to undermine the public acceptance of policy options.

3. Effectiveness in Promoting Universal Service

Policies should be evaluated based on how well they promote universal service – *i.e.*, how effectively they promote the availability of telecommunications services to consumers in high-cost areas. This requires not only an evaluation of *whether* a policy promotes subscribership, but also how *effectively* it does so. Thus, under this criterion, an option is preferred if it more effectively promotes consumer access and subscribership at a given funding level than other options that entail similar amounts of funding.

4. Economic Efficiency and Benefit to Consumers

Each policy should be as economically efficient as possible, which means it should maximize benefits to consumers and producers, while minimizing distortions to free market decisionmaking.

5. Competitive Neutrality

Closely related to the goal of economic efficiency is the requirement that each policy must be competitively neutral. Consistent with the pro-competitive policy framework set in place by the 1996 Act, the Commission has consistently professed adherence to competitive neutrality as a fundamental policy principle. "In this context, competitive neutrality means that universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another."[5] In other words, universal service policy should not impose an artificial barrier to competition. Neither the *Referral Order* nor the *Joint Board Public Notice* contain any indication that this fundamental policy principle is being reconsidered in any way. There is a close relationship between the competitive neutrality principle and the goals of economic efficiency and consumer benefit, since it is generally recognized that, in most cases, free-market competition is the most effective means to achieve economically efficient outcomes, including reasonable prices paid by consumers, deployment of new technologies, and offering of innovative services to meet consumers' varying needs.[6]

III. THE SCOPE OF UNIVERSAL SERVICE SUPPORT

The first category of problems addressed here relate to the question of which changes to the scope or structure of the high-cost funding mechanism would be appropriate to support universal service in the most cost-effective manner. The *Joint Board Public Notice* seeks comment on a number of policy options grouped under the general heading of the "scope" or structure of universal service support, with the primary focus on the question of whether support should be "limited to a single connection to the residential or single-line business end-user – whether provided by the incumbent or a competitive ETC."[7] The *Public Notice* seems to focus on the primary line restriction as a means to control or reduce the overall size of the fund; but in that connection it should be emphasized that the recent growth in the high-cost fund is <u>*not*</u> primarily due to the entry of competitive ETCs. The growth in the fund is primarily due to overall policy changes such as those adopted in the CALLS, RTF, and MAG orders, and the vast majority of the fund growth benefits ILECs, not competitive ETCs.[8] That said, the following section of this paper analyzes the proposal to impose primary line restrictions, as well as related policy alternatives, using the analytical framework set forth above.

A. Primary Line Restrictions

The *Referral Order* (¶ 9) and the *Joint Board Public Notice* (¶ 28) seek comment on whether the goals of Section 254 would be better served if support were limited to a single connection to the residential or single-line business end-user, whether provided by the ILEC or by a competitive ETC. In particular, the implication seems to be that the core goal of the Act's universal service support provisions is to give "households," not necessarily "consumers," access to affordable connectivity to the public switched network in high-cost areas, and that supporting more than one line per "household" is costly and may not further this goal.[9] Thus, the concept would be, for example, that if a household has a cell phone, subsidizing a wireline phone as well doesn't add any value.

The unarticulated assumption that there may be no universal service benefit from supporting multiple connections for a single end-user (household or business) may well be wrong. Like consumers in urban areas, consumers in rural and high-cost areas benefit from having multiple connections to public switched networks, such as connections used by multiple members of a family, connections for voice and data, or connections for mobile and stationary uses. Thus, in the increasingly competitive and dynamic marketplace for services supported by high-cost funds, when customers purchase service both from an ILEC and from a competitive ETC, there is no reason to assume that ILEC service is "primary" while all other service constitutes an insignificant add-on. For example, more and more consumers view their wireless phones as their "primary" voice service.

For that matter, local competition is not limited to "primary lines" in any event, nor is it a matter of consumers picking either the ILEC or the new entrant as their "primary" service provider. Rather, competition continues to develop for "second lines." Such competition is in the public interest and should be encouraged by the FCC's rules and policies. Just as opening markets for "primary" lines to competition conveys significant value to consumers, enabling competition with respect to all other lines also greatly advances the public interest.

Indeed, there is nothing in the statute that indicates universal service support is intended only to support connectivity via a single "primary" line. To the contrary, the Act explicitly provides that "[c]onsumers [not "households"]. . . in rural, insular and high cost

areas . . . should have access to telecommunications and information services . . . reasonably comparable to those services provided in urban areas and that are available at rates charged for similar services in urban areas."[10] There is no limit to the number of lines consumers in urban areas can obtain at reasonable prices, in part due to the emergence of competition in those areas. To the extent universal service support and competition, together, ensure that consumers in rural areas have access to a range of choices at reasonable prices for their "primary" lines, arguably the same combination of support funding and competitive forces should apply to give rural consumers the same opportunities as their urban counterparts with respect to "secondary" lines.

The *Joint Board Public Notice* [¶¶ 29-32] acknowledges that there are a number of difficult questions to resolve regarding how a primary line restriction would work in practice – and many of these questions are absolutely impossible to answer in a principled and competitively neutral manner. For example, the Joint Board asks [¶ 29], "If support were limited to a single connection, how would it be determined which line receives support? Is it administratively feasible to distinguish primary from second lines?" These questions, and the closely related empirical question in ¶ 27 ("What percentage of these lines, or lines in any particular geographic area, are second lines?"), cannot be answered in a principled manner. As the *Public Notice* acknowledges, these matters were so difficult to answer, even in the context of a ***single carrier's*** customer base, that the Commission ultimately abandoned its distinction between "primary line" and "secondary line" rate levels for subscriber line charges and presubscribed interexchange carrier charges.[11] It is similarly difficult or impossible, again in the context of a ***single carrier's*** customer base, for carriers to determine whether multiple individuals residing at a given residence constitute a single "household" unit for purposes of "primary line" determinations, and whether a given residence is a "second residence" that conceptually might not be deemed to have any "primary lines."[12]

In a ***multiple carrier*** environment – the principal focus of this proceeding – these questions become even more difficult to answer, and the manner in which the questions could be addressed are fraught with significance for the competitive neutrality of any such rules. It is clear that, where an end-user takes service from more than one ETC, a rule that presumes that the first ETC to provide service is automatically deemed "primary" would be blatantly biased in favor of ILECs (purely based on their incumbency) and against competitive ETCs. Such a rule, or the variants on it proposed in the NTCA petition,[13] clearly would violate competitive neutrality. An equivalent restriction would hold that whichever ETC the consumer signed up for most recently is deemed "primary." While such a rule would tend to favor competitive ETCs, it would also be non-competitively neutral.

Moreover, it would be completely anti-competitive to implement rules such as those proposed by NTCA, deeming an ILEC's service as "primary" and allowing the ILEC to receive funding for every line it provides, while disqualifying a competitive ETC from receiving support for a "non-primary" line unless the competitive ETC could prove that the line was "new" or "captured" from an ILEC (*i.e.*, that the competitive ETC is the only carrier providing service to such customers).[14] Such rules would place an impossible burden of proof on the competitive ETC, thus violating the "administrative feasibility" criterion as well as the competitive neutrality principle. Neither a competitive ETC nor an ILEC has any way of knowing whether it is the only carrier providing service to a given customer, or whether the customer has signed up for (or retained) service with some other carrier as well. A carrier certainly cannot be expected to know

which carrier the customer signed up for first. Carriers do not gather such information from consumers, and should not be expected to do so.

A further administrative complication relating to a primary line restriction involves the need to change the support mechanism for rural ILECs, which currently receive support based on embedded costs under a "rate of return" regulatory framework. As discussed above, the policy objective that appears to be driving the primary line restriction proposal is to reduce the overall size of the fund and to more effectively target a smaller amount of funds to subscribers who need it. But if rural ILECs simply received the same total pool of dollars, this objective would not be achieved. In fact, such an approach could increase the size of the fund, since the total funding amount to an ILEC would remain constant but the number of lines would go down, which would have the effect of increasing the per-line support level received by competitive ETCs.

Thus, if a primary line restriction were adopted, other changes would need to be implemented concurrently in order to eliminate funding for non-primary lines provided by rural ILECs.[15] Given that the motivating concept is that universal service support is not necessary for non-primary lines, the rural ILEC presumably also would need to obtain the right to increase their retail rates for non-primary residential and business lines. Since state commissions are responsible for regulating most ILEC retail rates, such policy changes would require extensive coordination between the FCC and state regulators. Such coordination would raise jurisdictional questions and would be difficult to implement. Moreover, a requirement to maintain two sets of rates – for primary and non-primary lines – would create major billing and ratemaking complexities for ILECs and competitive ETCs alike.

In sum, as discussed above, a primary line restriction (or the variants on this proposed by NTCA) raises major questions of legality, would be administratively infeasible to implement, and would violate the competitive neutrality requirement. Most significantly, as shown above, a primary line restriction would harm consumers and would be economically inefficient, since it would inhibit the provision of "second lines" and impede competition in the "second line" marketplace.

B. Limitation of Support to Residential Consumers

A restriction that would provide support only for service to residential subscribers would be an alternative to a primary line restriction, but presents many of the same implementation problems.[16] The rationale for such a restriction would be that business customers do not need universal service support in order to "afford" connectivity to public switched networks, and that this class of end-users can reasonably be expected to pay the full cost of the service they receive. Indeed, the Commission has acknowledged that business customers often pay inflated rates to subsidize lower rates for residential customers.[17] Although a residential line restriction may be more administratively simple to implement, it presents some of the same problems as a primary line restriction, namely the exclusion of a class of service from universal service that may be dependent upon support to maintain affordable rates.

C. "Phone Stamps:" Primary Line Restriction with Consumer Choice

One way to implement a primary line restriction in the context of a competitive marketplace, in which particular households may receive service from more than one ETC, would be to give consumers the choice of which ETC's service is "primary" and should get

support.[18] However, if the consumer choice of designating a "primary" service provider is nothing more than a beauty contest, with no consequences for the consumer, then the choice becomes meaningless, and could well have anti-competitive consequences unless a comprehensive consumer education campaign is undertaken. The only way to make the choice meaningful to consumers would be if the consumer faces price differences that are consequent upon his or her decision about which service is "primary." In other words, if a consumer concurrently takes service from two ETCs – say an ILEC and a wireless carrier – then, if the consumer designated the ILEC as "primary" it would pay lower, supported rates to the ILEC and higher, unsupported rates to the wireless carrier. If the consumer designated the wireless carrier as "primary," it would pay reduced rates to the wireless carrier and higher, unsupported rates to the ILEC.

Such an arrangement could be implemented by giving consumers some type of voucher or "phone stamps" (analogous to food stamps). If the consumer presents the voucher to one of the ETCs providing service, the consumer is entitled to a reduced rate from that carrier, and the carrier may seek reimbursement (*i.e.*, high-cost universal service support) from USAC. If the consumer does not present such a voucher, then the carrier would have to charge a higher price to that consumer.

In the past, "phone stamps" proposals have been criticized on legal grounds, on the basis that the Act contemplates providing support to carriers, not directly to consumers. That criticism can easily be refuted. Funds would still be disbursed to carriers, not to consumers, under the voucher approach outlined above. A more significant legal issue is that implementing such an option for the federal universal service plan would required careful coordination with state regulators, which would have to authorize ILECs to charge higher rates to customers that do not apply their vouchers, as well as to non-primary lines. It may or may not be possible to resolve this jurisdictional complication.[19]

An even more serious concern about "phone stamps" is administrative feasibility.[20] Implementing such an option would be very confusing and complicated for consumers, and would require extensive consumer education by regulators and carriers, comparable to that needed in the mid-1980s when consumers were "ballotted" for their choice of long-distance carriers. Moreover, implementing "phone stamps" would require substantial, costly tracking activities by carriers and by USAC. For example, there would have to be rules regarding how often a consumer could change his or her mind about which ETC is designated as "primary." While it would be desirable to make it easy for a consumer to change one's designated "primary" ETC frequently, in order to facilitate competition,[21] the more frequently consumers make such changes, the higher the administrative costs that carriers would face. Moreover, a requirement to maintain two sets of rates (or to give billing credits to consumers that submit vouchers) would create major billing and ratemaking complexities for ILECs and competitive ETCs alike.

D. Caps on Growth of Support by Geographic Area

Another alternative way to address the problem of fund growth would be to adopt a proposal proffered by the RTF but ultimately not adopted by the Commission.[22] The RTF noted that, as competitive ETCs enter the marketplace and rural ILECs lose market share, the per-line amounts of funding will increase, since rural ILECs receive a fixed total dollar amount of support and, under the current rules, do not lose any funds as they lose subscribers. To

remedy the potential "snowball" effect that this methodology could have as competitive ETCs enter, the RTF recommended establishing a cap on the growth of funding in each geographic area, such that the total amount of high-cost support received by all ETCs in that area grows by no more than the rate of inflation plus the rate of growth in the number of households (or population growth) in the area. In essence, the total permissible amount of funding would be split among the ETCs operating in the geographic area based on market share (the number of lines provided by each ETC), retaining the portability requirement that ensures that each ETC receives an identical amount of support per subscriber served.[23]

This option would have an identical (or quite similar) effect on the size of the fund as as a primary line restriction. However, instead of requiring a burdensome effort to track which lines are "primary," which could have anti-competitive implications (as discussed above), this alternative would simply involve an adjustment to the support formulas, which could easily be implemented by USAC without major administrative changes to carriers' billing systems or the need to implement a complicated process of consumer selections.

One possible adjustment to the RTF's recommended version of this option would be to allow additional increases in the total amount of funds available in each area based on the rate of increase in teledensity (telephone penetration), as well as inflation and population growth. This additional growth factor would enable the total amount of support in a geographic area to increase as either ILECs or competitive ETCs begin to provide service to formerly unserved customers, and thus would avoid penalizing carriers for doing what universal service policy is supposed to promote – providing service to previously unserved consumers. A cap on the total amount of funding by geographic area with such a teledensity-linked growth factor would offer incentives for both ILECs and new entrants to sell additional telecommunications lines, but prevents such sales from significantly expanding the federal fund unless the sale of lines results in an increase in subscribership levels. As a result, this set of policy mechanisms would effectively achieve universal service objectives with a narrowly targeted funding stream, and would operate in a competitively neutral manner. However, this approach might be difficult to implement unless valid and timely data on telecommunications subscribership changes were available at a geographically discrete level.

IV. AUCTIONS AS A MEANS TO DETERMINE UNIVERSAL SERVICE SUPPORT AMOUNTS

In connection with the second category of public policy problems addressed here, relating to how the amount of funding should be determined in high-cost areas, the *Joint Board Public Notice* [¶ 20] seeks comment on whether and how auctions might be used to award universal service support. Potentially, auctions could be used to simulate competitive market mechanisms to determine the appropriate amount of universal service support, rather than the embedded cost-based or forward-looking cost-based systems in use today in rural ILEC and non-rural ILEC areas, respectively. However, difficult questions must be answered before introducing an auction mechanism. Given the preliminary state of the public discussion about auctions, this paper offers some general observations about the use of auctions in the universal service context in light of the evaluation criteria identified above, and attempts to respond to a few of the questions raised in the *Joint Board Public Notice*.

A. Competitive Bidding and Post-Auction Competition

If a competitive bidding mechanism were used to award high-cost support only to a single ETC, then, in essence, the competition in the bidding process would substitute for competition in the marketplace post-auction. This approach is troubling from a number of perspectives. First, it is not clear that such a system for selecting a single eligible carrier could be consistent with Section 214(e) of the Act, which contemplates the designation of multiple ETCs, based on the use of a very different set of procedures.[24] Moreover, it is not clear how depriving consumers of competitive options in the provision of supported universal service would be consistent with the competitive neutrality requirement or with the economic efficiency criterion.[25]

Other forms of auctions could be designed, however, in which multiple bidders could win. Thus, using auctions would not necessarily be incompatible with post-auction competition. For example, GTE in 1996 proposed a system of universal service auctions in which multiple bidders could potentially win and simultaneously receive support.[26] Subsequently, economists employed by GTE or working in association with the company further developed this proposal.[27] In essence, GTE proposed an auction in which both the lowest bidder and all other auction participants submitting bids within a specified percentage range above the lowest bid would qualify. GTE proposed that identical per-line support funding would be disbursed to all winning bidders, in the amount of the highest qualifying bid.

One could generalize further and stipulate that all designated ETCs could receive the amount of support determined through the auction process; in essence, the auction would determine the amount of support, but would not be used to exclude potential qualifying carriers post-auction. Such an approach would be more consistent with post-auction competition than the GTE proposal, but might reduce auction participants' incentives to submit low bids.[28] This and many other difficult problems would need to be resolved regarding the administrative feasibility and effectiveness of using auctions for determining appropriate levels of universal service support.

B. Auctions and the Diversity of Services and Carriers

The GTE proposal contemplates that all ETCs would offer a standardized "local telephone service" product at a regulated rate specified in advance of the auction by the state regulator, and that all ETCs would be subject to identical, ILEC-like "carrier of last resort" obligations. But it is not clear why these restrictions would be necessary, and a number of detriments can be observed. In a dynamic marketplace, heterogeneous carriers offer diverse services that – while very different, and commanding different prices in the marketplace – all compete with one another because all offer basic functionalities included in the definition of universal service. As long as all ETCs comply with the basic requirements that they offer the services included in the universal service definition, consumers would benefit from being able to select from among a diverse range of offerings – and presumably would be willing to pay more for offerings that provide more valuable functionalities, such as mobility or higher data speed. Apart from basic service quality requirements already imposed by state regulators, it is not clear why auctions would necessitate any additional service quality rules.[29]

More fundamentally, GTE's proposal contemplates that auction participants' bids would be based on the difference between the regulated rate and each carrier's cost of service in a given geographic area. But this presumes that carriers face a static cost function. In reality,

carriers have opportunities to reduce the costs that they incur to provide high-quality service. Competition heightens the incentives for carriers to provide service at lower costs, but even certain regulatory mechanisms, such as price caps, give carriers incentives to provide service more efficiently. (Most rural ILECs have not yet been exposed either to competition or to price cap regulation.) The use of competitive bidding procedures to generate the minimal acceptable level of support, in combination with post-auction competition targeted to consumers, could heighten carriers' incentives to invest in facilities in high-cost areas and to provide high-quality service as efficiently as possible.[30]

In sum, it may be possible to design an auction mechanism to determine the level of high-cost universal service support in each geographic area, but such a mechanism must be designed carefully to avoid conflict with the ETC designation requirements of Section 214(e), and to avoid interfering with vigorous competition in the provision of supported services post-auction.

ENDNOTES

1. *Federal-State Joint Board on Universal Service*, Order, CC Docket No. 96-45, 17 FCC Rcd 22642 (2002) ("*Referral Order*"); *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support and the ETC Designation Process*, CC Docket No. 96-45, FCC 03J-1 (Jt. Bd., rel. Feb. 7, 2003) ("*Joint Board Public Notice*" or "*Public Notice*"). It is notable that the *Referral Order* was released exactly six years after the Joint Board's initial recommended decision on universal service, and the *Joint Board Public Notice* was issued one day before the seventh anniversary of the Telecommunications Act of 1996 ("1996 Act").

2. This methodology is drawn from Eugene Bardach, *A Practical Guide for Policy Analysis: The Eightfold Path to More Effective Problem Solving* (2d ed. 2000).

3. *Referral Order*, 17 FCC Rcd at 22646-47, ¶ 9; *Joint Board Public Notice*, ¶¶ 26-32.

4. *Referral Order*, 17 FCC Rcd at 22645-46, ¶¶ 7-8; *Joint Board Public Notice*, ¶¶ 15-25.

5. *Universal Service First Report and Order*, 12 FCC Rcd at 8801, ¶ 47.

6. Indeed, the Commission held in the *Universal Service First Report and Order* that there was no need to formally incorporate economic efficiency as a universal service principle pursuant to Section 254(b)(7) of the Act, reasoning that concept was already incorporated in the other principles "to the extent that they promote competition through an open and competitively neutral marketplace." 12 FCC Rcd at 8805, ¶ 55.

7. *Joint Board Public Notice*, ¶ 28.

8. *Access Charge Reform,* Sixth Report and Order, 15 FCC Rcd 12962 (2000) ("*CALLS Order*"), *aff'd in part, rev'd in part sub nom. Texas Office of Pub. Util. Counsel v. FCC,* 265 F.3d 313 (5th Cir. 2001); *Federal-State Joint Board on Universal Service*, Fourteenth Report and Order, 16 FCC Rcd 11244 (2001) ("*RTF Order*"); *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers,* 16 FCC Rcd 19613 (2001) ("*MAG Order*"), *recon.*, 17 FCC Rcd 11472 (2002).

9. Another policy consideration that may be relevant is the possibility that the cost that a single carrier incurs in providing a second line to a customer premise may be minimal if that carrier already provides a first line. This possibility, mentioned in the 1997 *Universal Service First Report and Order*, 12 FCC Rcd at 8829-30, ¶ 96 but not in either of the documents initiating the current proceeding, theoretically could be incorporated into forward-looking cost models, but in practice most such models have not yet done so; for that matter, existing embedded cost methodologies could also take account for such a cost differential but to date have not done so. *Cf. Joint Board Public Notice,* ¶ 28 ("How would a primary line restriction affect the implementation of federal support mechanisms based on embedded or forward-looking costs?"). It should be pointed out, however, that the possibility that a single carrier incurs minimal costs in providing a second line says nothing about the costs incurred by two different carriers each providing a separate connection to a given household.

10. 47 U.S.C. § 254(b)(3).

11. *Joint Board Public Notice,* ¶ 29 n.64, *citing CALLS Order*, 15 FCC Rcd at 13002, ¶ 100; *MAG Order*, 16 FCC Rcd at 19636-37, ¶ 47.

12. *Joint Board Public Notice,* ¶¶ 29, 31.

13. National Telecommunications Cooperative Association, *Petition for Expedited Rulemaking To Define "Captured" and "New" Subscriber Lines for Purposes of Receiving Universal Service Support Pursuant to §54.307 et seq.*, RM No. 10522 (filed July 26, 2002).

14. *See* Competitive Universal Service Coalition Comments on NTCA Petition, RM No. 10522 (filed Sept. 23, 2002); Competitive Universal Service Coalition Reply Comments on NTCA Petition, RM No. 10522 (filed Oct. 7, 2002). Western Wireless respectfully requests that these comments and reply comments be incorporated by reference in the record of the instant proceeding.

15. *See Joint Board Public Notice*, ¶¶ 29-30 ("If the Commission limited support to primary lines, would the Commission also need to revise how it determined the amount of support per line? If so, how should the level of support be determined? . . . How would consumers be affected by such action? How would this affect the price of services for single line subscribers and multi-line subscribers?").

16. *See Joint Board Public Notice*, ¶ 31 ("Alternatively, should the number of connections eligible for high-cost support be limited in some manner other than a primary line restriction?").

17. *Universal Service First Report and Order*, 12 FCC Rcd at 8784, ¶ 11 & n.17; *see also Access Charge Reform*, First Report and Order, 12 FCC Rcd 15982 (1997), *aff'd sub. nom. Southwestern Bell Tel. Co. v. FCC*, 153 F.3d 523 (8th Cir. 1998) (eliminating Subscriber Line Charge subsidies to business customers but retaining such subsidies for residential consumers).

18. *See Joint Board Public Notice*, ¶ 30 ("If support were limited to a single connection, should the end user designate the line to be supported, and if so, how would this rule be administered? How would this affect the price of services for single line subscribers and multi-line subscribers?").

19. One might derive a rationale for such jurisdictional coordination based on the Tenth Circuit's decision in *Qwest Corp. v. FCC*, 258 F.3d 1191, 1204 (10th Cir. 2001), indicating that the FCC could provide "inducements" to state regulators to make the necessary regulatory changes for consistency with the federal universal service fund.

20. *See Universal Service First Report and Order*, 12 FCC Rcd at 8973, ¶ 372 (deeming a phonevoucher proposal administratively infeasible).

21. One potentially positive aspect of a "phone stamps" policy is that it could significantly increase consumer consciousness of competitive alternatives for supported universal service, and would thereby promote economically efficient competition.

22. *Joint Board Public Notice*, ¶ 24 ("[T]he Commission sought comment on whether to freeze per-line support amounts available to the rural incumbent LEC and any competitive ETC in competitive study areas served by rural carriers. We invite commenters to update the record and provide alternative proposals that may be appropriate to address this issue."). *See also Federal-State Joint Board on Universal Service*, Further Notice of Proposed Rulemaking, 16 FCC Rcd 6141, 6143, ¶ 6 (2001); Recommended Decision, 16 FCC Rcd 6153, 6161, ¶ 18 (2000) & App. A at 6199-6200.

23. Specifically, this option could be implemented as follows: In each quarter, USAC would calculate the total amount of support going to both ILECs and competitive ETCs. If that total exceeds the total during the preceding quarter adjusted by the permitted rate of fund growth, then the support disbursed to each carrier would decline by identical proportions. Further reductions would be necessary for all carriers on a proportional basis to the extent necessary due to the national cap on high-cost loop support. It is also notable that this proposal could be implemented concurrently with including competitive ETCs in the overall national cap on high-cost loop support.

24. *See Joint Board Public Notice*, ¶ 20 ("How would auctions be implemented in light of section 214(e)(2) of the Act, which requires states to determine through the ETC process whether designation of a competitive ETC in a give service area would serve the public interest? . . . What would be the effect of auctions on the objective of fostering competition and the principle of competitive neutrality in high-cost areas?").

25. *See* Peter K. Pitsch, "Reforming Universal Service: Competitive Bidding or Consumer Choice," Cato Institute Briefing Paper No. 29 (May 7, 1997) (available at http://www.cato.org/pubs/briefs/bp-029.htm) (arguing that a competitive bidding system that awards special advantages to a single company would have anti-competitive effects, and that a system of portable per-line support would rely on consumer choice and allow subsidies to be phased down).

26. Statement of Paul R. Milgrom, attached to GTE Comments in Response to Questions, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45 (filed Aug. 2, 1996).

27. *See, e.g.,* Dennis Weller, "Auctions for Universal Service Obligations," 23 Telecommunications Policy 645 (1999); Valter Sorana, "Some Economics of Carrier of Last Resort Auctions," presented to Telecommunications

Policy Research Conference (1998) (at http://faculty-gsb.stanford.edu/wilson/archive/E542/classfiles/sorana_tprcpaper98.pdf); James Alleman, Paul N. Rappoport, and Dennis Weller, "Universal Service: The Poverty of Policy," 71 Univ. of Colo. L. Rev. 849 (2000). *See also* Frank Kelly & Richard Steinberg, "A Combinatorial Auction with Multiple Winners for Universal Service," University of Cambridge (1998) (at http://www.statslab.cam.ac.uk/~frank/AUCTION/auction.pdf).

28. *See Joint Board Public Notice*, ¶ 20 ("Under an auction system, would adequate incentives exist to ensure each carrier would provide its lowest bid?").

29. *Id.* ("What responsibilities should be imposed on the ETC that receives high-cost support? Should such an ETC be required to assume quality of service obligations?").

30. *Id.* ("Specifically, what impact would auctions have on investment by incumbents and competitors in high-cost areas? What sort of measures could be adopted to encourage auction winners, as well as losers, to continue investing in high-cost areas?").